

THE HON'BLE SRI JUSTICE P.S.NARAYANA

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WRIT PETITION NO.11118 of 2006

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DATED: 27.06.2006

Between:

P.Premasai Babu

.. PETITIONER

versus

Greater Municipal Corporation of
Visakhapatnam, represented by it
Commissioner, Visakhapatnam and
and another.

..

RESPONDENTS

WRIT PETITION NO.11118 of 2006

ORDER:

Heard both the learned counsel.

2. This Court ordered Notice Before Admission on 6.6.2006 and directed status quo to be maintained for a period of three (03) weeks.

Sri Ranga Reddy, learned Standing Counsel for 1st respondent and the learned Government Pleader for Revenue for 2nd respondent would submit that the respondents are inclined to follow the procedure and hence the Writ Petition can be disposed of.

3. The Writ Petition is filed for a Writ of Mandamus declaring the action of 1st respondent-Corporation in cutting trees and laying road in the land belonging to the petitioner in survey No.17/7 (old survey No.13) and survey No.29 of Chinnagadili village, Chinnagadili Mandal, Visakhapatnam District and setting in process of displacement and eviction as unconstitutional and consequently direct the respondents to compensate the petitioner for the trees cut while declaring that the 1st respondent-Corporation cannot dispossess the petitioner from the lands in survey No.17/7 (old survey No.13) and survey No.29 of Chinnagadili village, Chinnagadili Mandal, Visakhapatnam District or interfere with enjoyment of the same by the petitioner and pass such other suitable orders.

4. It is stated that the ancestors of the petitioner have been in possession and enjoyment of the lands in Survey Nos.13 and 29 and presently in survey No.17/7 of Chinnagadili village, Chinnagadili

Mandal, Visakhapatnam District and his family is the absolute owner and possessor of the lands. It is stated that some land in the area was taken for setting up State Dairy Farm in 1959-61 and after setting up the same, fencing was not properly put and some of the officers belonging to Dairy Farm had directed for cutting the trees etc., in the lands which is in possession of his family. It is also stated that when they protested and made enquiries, the Mandal Revenue Officer said that they are the owners of the land and they have a right to have continuous possession of the same. It is also stated that when it was established that Visakhapatnam Dairy Farm was not legal possession of their lands in the name of area not being demarcated properly, petitioner requested the authorities to demarcate the land belonging to them as well as Dairy Farm and when that was not being acted upon, Writ Petition No.7714 of 2005 was filed in this Court. It is stated that this Court directed the authorities to conduct survey so that the land belonging to the petitioner's family and the Dairy farm is clearly demarcated and boundaries to be fixed. It is further stated that pursuant to the disposal of the said Writ Petition, though the family of the petitioner made appropriate representations, the authorities called for the old records and they reluctantly came and made full-fledged survey and identified survey No.17/7 and prepared full-fledged survey map and the revenue authorities had taken on record the said fact and the said that this is being incorporated in the records. Several other details also had been narrated in paragraphs 6 and 7 of the affidavit filed in support of the Writ Petition and ultimately the relief is prayed for.

It is needless to say that in the event of the family of the petitioner being owner of the property, the land in question may have to be acquired in accordance with law. This Court is not inclined to express any opinion in relation to the same in the light of several of the facts

narrated in the affidavit filed in support of the Writ Petition. It is also needless to say that the respondents are bound to follow the due process of law before initiating any action whatsoever. It is also needless to say that in case the respondents are satisfied that the petitioner's family is the owner of the property in question, appropriate proceedings under Land Acquisition Act to be initiated if the family will not give consent.

Hence, the Writ Petition is disposed of directing the respondents not to resort to dispossession of the petitioner from the subject matter of the Writ Petition unless and until the respondents follow due process of law. No costs.

27.06.2006

SSR
Issue order copy in three days.
(BO)